A Legal Analysis of the Company Formation Process for Foreign Investors in Turkey Under the Amended Commercial Code

Abstract:

This paper provides a legal analysis of the framework governing the establishment of capital companies—specifically the Limited Liability Company (LLC) and the Joint-Stock Company (JSC)—by foreign investors in Turkey. It examines the principle of equal treatment for foreign direct investment (FDI) as enshrined in the Turkish Commercial Code (TCC) and other relevant legislation. The analysis further covers the practical implications of the recent 2024 amendments concerning minimum capital requirements and outlines the procedural steps managed through the Central Registration System (MERSİS) and the Trade Registry Offices.

1. Introduction to the Legal Framework

The Republic of Turkey actively encourages foreign direct investment (FDI) through a liberalized legal framework, primarily governed by the Turkish Commercial Code (No. 6102) and the Foreign Direct Investment Law (No. 4875). The foundational principle is that of "equal treatment," affording foreign investors the same rights and obligations as their domestic counterparts. This analysis focuses on the practical application of this principle in the context of company formation in Turkey.

2. Primary Corporate Vehicles: A.Ş. vs. Ltd. Şti.

The TCC provides two primary corporate vehicles for investors: the Joint-Stock Company (*Anonim Şirket* - A.Ş.) and the Limited Liability Company (*Limited Şirket* - Ltd. Şti.). While both allow for 100% foreign ownership, their legal structures differ significantly in terms of capital requirements, shareholder liability for public debts, and the flexibility of share transfers. The JSC is typically structured for larger-scale operations with a higher capital threshold, whereas the LLC offers a more flexible structure suitable for small to medium-sized enterprises.

3. The Impact of Recent 2024 Amendments

Effective from January 1, 2024, significant amendments were made to the TCC, directly impacting new company formations. The mandatory minimum share capital for LLCs was increased to 50,000 TRY, and for JSCs, it was raised to 250,000 TRY **[1]**. These changes reflect an effort to ensure new enterprises are better capitalized and financially more stable from their inception.

4. The Registration Process: MERSİS and the Trade Registry

The incorporation process in Turkey is highly centralized and digitized, primarily operating through the Central Registration System (MERSİS). This online platform is used for drafting the Articles of Association and submitting the initial application. Final registration is completed in person or via power of attorney at the competent local Trade Registry Office once all notarized documents and capital deposit proofs are filed.